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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

HERBERT H. KLIEGERMAN, on behalf of
himself and others similarly situated,

Plaintiff,

- against -

APPLE, INC., and AT&T MOBILITY, LLC

Defendants.

07-cv-08404-PKC

**DEFENDANT APPLE INC.'S
NOTICE OF MOTION TO
TRANSFER PURSUANT TO 28
U.S.C. § 1404(a)**

PLEASE TAKE NOTICE, that upon the accompanying Memorandum of Law in Support of Defendant's Motion to Transfer, dated January 18, 2008; the Declaration of Bob Borchers, dated January 17, 2008, the Declaration of Christopher S. Yates, and the exhibits annexed thereto, dated January 18, 2008, the undersigned attorneys for Defendant Apple Inc. ("Apple") will and hereby do move this Court, on a date and time to be determined by the Court, for an Order, pursuant to 28 U.S.C. Section 1404(a) transferring this action to the United States District Court for the Northern District of California. A transfer of this action to the Northern District of California would promote the public interest and convenience by avoiding duplicative litigation with *In Re Apple and AT&TM Anti-Trust Litigation* (07-cv-5152-JW), currently pending in that Court. In addition, the

Northern District of California is clearly the more convenient forum and the traditional 1404(a) factors weigh heavily in favor of a transfer to California.

This motion will be heard by the Honorable P. Kevin Castel, United District Judge, at the Courthouse located at 500 Pearl Street, New York, New York 10007, on a date and at a time convenient for the Court.

Dated: San Francisco, California
January 18, 2008

Respectfully submitted,
LATHAM & WATKINS LLP

By /s/ Christopher S. Yates
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